



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/281,474	03/30/1999	MILIND RAJOPADHYE	DM-6958	7274

23914 7590 01/13/2003

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

EXAMINER

JONES, DAMERON LEVEST

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 01/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/281,474

Applicant(s)

RAJOPADHYE ET AL.

Examiner

D. L. Jones

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 and 48-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

ACKNOWLEDGMENTS

1. The Examiner acknowledges receipt of Paper No. 24, filed 10/21/02, wherein Applicant canceled claims 36-47 and 51 and amended claims 2, 3, 12, 13, 19, 20, 27, 28, and 31.

Note: Claims 1-35 and 48-50 are pending.

RESPONSE TO APPLICANT'S ARGUMENTS/AMENDMENT

2. The Applicant's arguments filed 10/21/02 (Paper No. 24) to the rejection of claims 1-35 and 48-50 made by the Examiner under 35 USC 103 and/or double patenting have been fully considered and deemed non-persuasive for the reasons set forth below.

Double Patenting Rejections


The provisional rejection of claims 1-35 and 48-50 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over copending application numbers 09/465,300; 09/466,582; 09/599,364; 09/281,209; and 09/948,807 are MAINTAINED for reasons of record in the office action mailed 7/2/02, Paper No. 22.

Note: It is duly noted that Applicant asserted that the provisional rejections were improper. However, Applicant stated that the rejections would be rebutted upon withdrawal of all other rejections.

103 Rejections

The rejection of claims 1, 2, 1-15, 17, 19-23, 25, 27, 28, 31-35, 48, and 49 under 35 USC 103(a) is MAINTAINED as being unpatentable over Palladino et al (US Patent No. 5,780,426) for reasons of record in the office action mailed 7/2/02, Paper No. 22.

Applicant asserts that the office has not provided motivation or suggestion in the cited reference to generate a composition as set forth by Applicant in claims 1 or 11 wherein the targeting moiety is bound to the chelator. Applicant references column 16, line 66, of Palladino et al and asserts that the reference does not suggest that the targeting moiety is bound to the chelator as in the instant invention.

Applicant's independent claims 1 and 11 as written ^{is} ~~as~~ interpreted as having compositions comprising a targeting moiety bound to a chelator (optionally having a linking group) wherein the targeting moiety is a peptide or peptidomimetic. 

In column 16, lines 62-66, it is disclosed that there is a peptide that may include a chelator. Thus, a skilled practitioner in the art would recognize that as the composition of Palladino may be a peptide-chelator complex. Hence, the only other requirement of Applicant's invention as it relates to modified Group 12 is that the receptor be alpha-v-beta-3. If a skilled practitioner reviews the abstract and/or columns 3-4, bridging paragraph of Palladino, it would be obvious to the practitioner to bind the peptide complex to alpha-v-beta-3 because in column 4, lines 1-22, it is disclosed that the peptide is positioned to bind to the alpha-v-beta-3 integrin receptor. As a result, it would be obvious to generate a composition comprising a peptide targeting moiety bound to a chelator wherein the receptor is alpha-v-beta-3.

COMMENTS/NOTES

3. Applicant is respectfully requested to amend claims 1 and 11 the subject matter examined as set forth in Paper No. 22, mailed 7/2/02. The search was not expanded beyond modified Group 12 wherein alpha-v-beta-3 is the receptor.

4. In regards to the PTO-948 (notice regarding the drawings), it is duly noted that the notice was erroneously mailed to Applicant.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

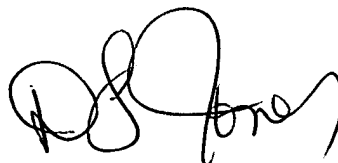
Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (703) 308-4640.

Art Unit: 1616

The examiner can normally be reached on Mon.-Fri. (alternate Mon.), 6:45 a.m. - 4:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose' Dees can be reached on (703) 308- 4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

A handwritten signature in black ink, appearing to read 'D. L. Jones', with a stylized, cursive script.

D. L. Jones
Primary Examiner
Art Unit 1616

January 10, 2003